



GENERAL ORDER

DURHAM POLICE DEPARTMENT
DURHAM, NC

NUMBER:

4008 R-12

USE OF FORCE

Effective Date: 12/15/1995

Revision Dates: R-1 03/01/1996; R-2 04/15/2001; R-3 04/21/2008; R-4 02/09/2010; R-5 04/06/2010; R-6 07/22/2010; R-7 08/29/2011; R-8 01/31/2013; R-9 06/11/2014; R-10 09/02/2015; R-11 02/01/2016; **R-12 01/23/2017**

INTRODUCTION

Officers of the Durham Police Department shall use only the force reasonably necessary to achieve a lawful objective. When any officer uses physical force, a lethal or less-than-lethal weapon, or any force that results in injury, the details surrounding the use shall be reported by the officer(s) involved. The information contained herein is not “all inclusive” and is intended to be used as a reference to complement State and/or Department mandated Use of Force training.

DEFINITIONS

Physical Force - any actions or tactics used on a non-compliant, resistive, or assaultive subject, including, but not limited to, joint manipulation, pressure points, takedowns, strikes, less-than-lethal weapons and lethal weapons, including but not limited to the use of a firearm. Verbal communication, pursuit, control holds without torque or pain, and basic handcuffing techniques shall not constitute use of physical force for purposes of this policy.

Reasonable Belief - a belief based on a fair and sensible perception of the facts and circumstances, which accounts for the totality of the conditions present at the time that the perception was formed.

Compliance – describes subject behavior characterized by obedience to verbal direction and an absence of physical efforts to prevent control by a police officer.

Passive Non-Compliance – describes subject behavior characterized by a willful disobedience of verbal directions accompanied by an absence of physical efforts to prevent control by a police officer.

Active Non-Compliance – describes subject behavior characterized by willful disobedience to verbal directions and the presence of physical efforts to prevent control by a police officer.

Assaultive Non-Compliance – describes subject behavior characterized by physical efforts to strike, physically control or disrupt the balance and control efforts of a police officer.

Aggravated Assaultive Non-Compliance – describes subject behavior characterized by use of weapon and/or physical efforts to strike, physically control, or disrupt the balance and control efforts of a police officer in a manner that is likely to cause incapacitation, unconsciousness, and/or death.

Injury – damage to a person’s body, usually accompanied by pain, produced by physical collision or movement and/or cardio-pulmonary damage related to physical exertion associated with physically resisting control. This includes minor injuries such as scrapes, abrasions and bruises. A subject’s description of pain or discomfort alone is not considered an injury, but a subject’s complaint of an injury such as a sprain or tear is considered an injury even when there are no visible signs.

Serious Bodily Injury – injury which results in a permanent or protracted condition that causes significant physical pain, significant permanent disfigurement, coma, permanent or protracted loss or impairment of the function of any bodily organ or member, and/or prolonged hospitalization.

Deadly Force - force that under the circumstance of its use is reasonably likely to cause death or serious bodily injury.

USE OF FORCE GUIDELINES

Officers of the Durham Police department must use force in accordance with relevant case law, [N.C.G.S. § 15A-401](#) and this General Order. When an officer develops a reasonable belief that it is necessary to use force to achieve a lawful police purpose, they must use objectively reasonable force given the totality of the circumstances at the time. The standard of objective reasonableness is judged from the perspective of a reasonably well-trained police officer on the scene at the time of the incident. The amount and degree of force which may be employed in attaining the purpose will be determined by the totality of the circumstances including, but not limited to:

- The nature of the offense;
- The behavior of the subject against whom force is to be used;
- Actions by third parties who may be present;
- Physical conditions; and
- The feasibility or availability of alternative actions.

Officers are justified in using force upon another person when and to the extent the officer reasonably believes it necessary:

- To effect the detention of a person who he/she has reasonable suspicion to believe is about to commit, is committing or has committed a criminal offense;
- To prevent the escape from custody or to effect an arrest of a person who he/she reasonably believes has committed a criminal offense, unless he/she knows that the arrest is unauthorized; or
- To defend themselves or a third person from what he/she reasonably believes to be the use or imminent use of physical force.

USE OF FORCE OPTIONS

The force options available to officers are listed below. The list begins with the force options that are least likely to cause injury to officers and subjects. Each subsequent option has an increased likelihood to cause injury to officers and subjects:

- Officer Presence
- Verbal Direction
- Soft Empty Hand Techniques

- Aerosol Weapons/Chemical Munitions
- Leverage Weapons
- Stunning and Distraction Strikes
- Conducted Electrical Weapon (CEW)
- Hard Empty Hand Strikes
- Police Canine Bite
- Impact Weapons/Munitions
- Deadly Force/Firearms

Officer Presence

Officer Presence refers to the effect that the mere presence and appearance of a police officer has on a subject. It is recognized that the presence of more than one officer at an incident has a substantial effect in reducing the likelihood that subjects will be non-compliant.

Verbal Direction

Verbal Direction refers to any verbal attempt to gain compliance on the part of a police officer including direct commands and attempts to verbally deescalate a situation. Verbal Direction is typically used to facilitate control of compliant subjects and in conjunction with other levels of force to facilitate control of non-compliant subjects. Officers are encouraged to attempt to gain compliance through Verbal Direction whenever feasible, but are expressly permitted to use Physical Force when they reasonably believe it to be necessary and objectively reasonable.

Soft Empty Hands

Soft Empty Hands refers to physical contact that does not involve dynamic impact to include grabbing, holding, joint manipulations, pressure point techniques, takedowns and balance disruptions. These techniques are typically used to maintain control of compliant subjects or facilitate control of non-compliant subjects.

Joint manipulations include the Bent Wrist and the Straight Arm Bar. These techniques can both cause pain and enable the officer to gain physical control over a subject's movements.

Pressure points include the Mandibular Angle, the Hypoglossal and the Jugular Notch. These techniques are intended to cause the subject pain and should be accompanied by Verbal Directions.

Takedowns include the Arm Bar Takedown. This technique is intended to force a subject from a standing or seated position into a prone position on the ground. This technique is designed to enable an officer to gain physical control over a non-compliant subject.

Absent any specific training, officers are permitted to reasonably grab, push, trip and hold a subject in order to gain or maintain control.

Aerosol Weapons/Chemical Munitions

Aerosol Weapons refers to the use of a pressurized irritant such as CN, CS and/or OC that has the effect of pain and inflammation of the mucus membranes of a subject to include spraying a subject with Freeze+P. Aerosol weapons are typically used to facilitate control of a subject that is actively non-compliant or to prevent or stop

assaultive non-compliant behavior by a subject. The officer must be confronted with more than passive resistance.

Aerosol weapons primarily cause physiological effects including a burning sensation, inflammation of the mucous membranes, and involuntary closing of the eyes. The effects of aerosol weapons are usually temporary and will typically disappear within 45 minutes.

If a subject has been controlled through the use of an aerosol weapon, officers shall monitor the subject's breathing and consciousness, unless a law enforcement emergency prevents it. As soon as reasonable under the circumstances, officers shall decontaminate the affected prisoner by flushing the affected area with fresh water then exposing the area to fresh air. Beyond decontamination and the general guidelines for injuries, there is no special medical attention required for a prisoner exposed to an aerosol weapon.

Chemical Munitions refers to the use of specialty, hand-delivered munitions or projectiles that contain a chemical agent, typically used during a police response to civil unrest. For specific information about Chemical Munitions, refer to the Selective Enforcement Team Standard Operating Procedures Manual.

Leverage Weapons

Leverage Weapons refers to use of weapons, not involving dynamic impact, with slow pressure to include pressing baton against a motor nerve area and/or using a baton to facilitate control of a subject's arm. Leverage Weapons are typically used to facilitate control of a subject that is actively non-compliant.

The department issued expandable baton may be used as a leverage weapon or as an impact weapon.

Stunning and Distraction Strikes

Stunning and Distraction Strikes refers to the use of physical contact involving dynamic impact to specific areas of the body that are not likely to result in serious injury but are likely to result in a temporary disruption in focus, attention and/or physical function on the part of a subject. Stunning and Distraction Strikes are typically used to facilitate control of an actively non-compliant subject when Soft Empty Hands techniques alone are ineffective.

Stunning and Distraction Strikes include strikes with hands, elbows, knees or feet to muscle groups and nerve points such as the Brachial Plexus Origin, the Suprascapular and the Common Peroneal motor nerve points.

Conducted Electrical Weapons

Conducted Electrical Weapons (CEWs) refers to the use of a weapon capable of delivering energy to the subject by either propelling two probes attached to the unit into the subject, or by putting the unit in direct contact with the subject's body (drive stun mode). CEWs are typically used to prevent or stop assaultive non-compliant behavior by a subject or a subject who poses an imminent threat of physical injury to the officer, or a third party or to prevent or stop the imminent self-infliction of serious physical injury or death, if not immediately apprehended. CEWs should not be used to merely prevent the escape of a non-assaultive suspect who poses no such risk.

When used in probe mode, the CEW is capable of causing neuro muscular incapacitation (NMI). The resulting loss of muscle control is temporary and will subside immediately upon completion of the discharge. Drive stun mode is a pain compliance technique only and does not cause NMI unless performed in conjunction with the probe mode.

Removal of probes in non-sensitive areas may be done by officers according to probe-removal training guidelines. Officers, or other trained personnel, will provide first aid following removal of the probes as needed.

Medical personnel (such as EMS) shall remove probes located in sensitive areas. In the event that a probe barb has broken off and is still embedded in a subject's skin, the subject shall be provided medical attention to facilitate the removal of the object. Beyond probe removal and the general guidelines for injuries, there is no special medical attention required for a subject controlled by a CEW.

Due to the increased risk of unintentional injury, the use of a CEW should be avoided on the following groups of people unless exigent circumstances exist:

- Elderly persons who are reasonably believed to be 65 years or older;
- Women who are reasonably believed to be pregnant;
- Visibly frail persons;
- On any person who has been handcuffed, hobbled, or otherwise physically bound;
- On any person who is in control of a vehicle that is in gear or in motion;
- On any person who is actively running or operating a wheeled conveyance;
- On any person's head, neck, or genitalia;
- On any person who is in a position or location which creates the likelihood for additional injury other than those created by the effects of the CEW.

The CEW will NOT be used under the following circumstances:

- On a person who is being actively sprayed with any aerosol weapons.
- In the proximity of known flammable liquids, gases, or any other highly combustible materials that may be ignited by the device including any individual that may have been exposed to highly combustible materials and/or liquids such as gasoline.
- On a passively resisting individual who does not pose an imminent threat to the officer or a third party.

Hard Empty Hands

Hard Empty Hands refers to the use of physical contact involving dynamic impact to include punches, kicks, elbow strikes and head butts. These techniques should be used against the part of the subject's body that is most accessible and that is likely to be most effective. Hard Empty Hand techniques are typically used to stop assaultive non-compliant behavior by a subject.

Police Canine Bite

Police Canine Bite refers to the use of physical contact involving a police canine to include a bite and hold by the canine at the direction of a canine handler. A Police Canine Bite is typically used to facilitate control of an actively non-compliant subject that poses a threat to others.

For specific information about Police Canine, refer to G.O. 4026 Canine Operations.

Impact Weapons/Munitions

Impact Weapons refers to the use of weapons involving dynamic impact such as striking a subject with a baton. Impact Weapons are typically used to prevent or stop assaultive non-compliant behavior by a subject.

When used as an impact weapon the baton is capable of delivering powerful blows to stun and/or temporarily disable an assaultive non-compliant subject. Officers should strike the part of the subject's body that is being used to assault the officer or a third party. In the case of a subject attempting to punch an officer, the

appropriate target would be the subject's arms. In addition to the department-issued expandable baton, other items at hand may be employed as an impact weapon, such as the Department issued flashlight. Officers using other objects as impact weapons must be prepared to substantiate their decisions.

Impact Munitions refers to the use of specialty Impact Munitions such as the Defense Technologies 40mm Exact Impact Munition. These Impact Munitions are designed to deliver blows that will stun and/or temporarily disable a subject. Impact Munitions are designed to be used against a subject that is assaultive and non-compliant. For specific information about Impact Munitions, refer to the Selective Enforcement Team Standard Operating Procedures Manual.

Beyond the general guidelines for injuries, there is no special medical attention required for the use of an impact weapon.

**** NOTE:** Intentionally striking another person on the head, genitals, solar plexus, kidneys, or the spinal column when utilizing an impact weapon constitutes a use of deadly force and must be justified as such.

Deadly Force

Officers are justified in using deadly physical force upon another person when it is or appears to be reasonably necessary thereby:

- To defend themselves or a third person from what the officer reasonably believes to be the use or imminent use of deadly physical force;
- To effect an arrest or to prevent the escape from custody of a person whom the officer reasonably believes is attempting to escape by means of a deadly weapon, or by their conduct or any other means indicates that they present an imminent threat of death or serious physical injury to others unless apprehended without delay.

Deadly Force may be applied:

- Through the use of empty hand techniques such as intentionally striking a subject's eyes or throat;
- Through the use of an Impact Weapon when an officer intentionally strikes a subject on the head or neck;
- Through the use of a Firearm;
- Through the use of a motor vehicle to engage in a legal intervention to stop a vehicle in accordance with G.O. 4019 – Vehicle Pursuits.

****NOTE:** Chokeholds are considered a use of deadly physical force. Officers of this department are not trained in the use of chokeholds and therefore, are prohibited from utilizing them unless the use of deadly force is reasonable under the circumstances.

LETHAL AND LESS-THAN-LETHAL WEAPONS

The application of force includes a wide range of alternatives, some requiring the use of either lethal or less-than-lethal weapons. To this end, the department issues weapons and ammunition which may be used by the officer to protect themselves or others or to gain control of non-compliant or assaultive individuals in arrest or other enforcement situations.

Only those weapons and/or ammunition issued by the department or approved for use by the Chief of Police, either lethal or less-than-lethal, shall be authorized for use by officers of this department. Any deviation from this policy will cause the initiation of disciplinary procedures against those officer(s) involved.

No weapon shall be issued for field use until the officer has been issued a copy of this General Order, received training in the contents of this G.O. and demonstrated an acceptable level of proficiency in its use. The desired level of proficiency shall be in accordance with standards established by the North Carolina Criminal Justice Education and Training Standards Commission and the Durham Police Department's Training Division. An appropriately certified weapons instructor or armorer will inspect all weapons prior to issuing them and monitor proficiency on each lethal and less-than-lethal weapons.

RENDERING APPROPRIATE MEDICAL AID TO THE INJURED

In conjunction with their Basic Law Enforcement Training, officers of this Department are certified as First Responders. As such, they are provided with the basic knowledge and skills to recognize medical emergencies and sustain life, reduce suffering, and prevent further serious complications by the use of prompt, effective measures until professional medical care is available.

When an officer inflicts injury upon another person that appears to result in a life threatening emergency, they shall request emergency medical assistance as soon as reasonably possible. While waiting for the emergency medical assistance to arrive, officers on the scene, assuming they are not incapacitated themselves, will provide whatever medical aid they can commensurate with their training.

When an officer inflicts injury upon another person that does not appear to result in a life threatening emergency, based on their first responder training, they shall make an immediate assessment of the injuries involved. Officers may then use their discretion in determining:

- If any medical attention is required at all. If there exists any doubt in an officer's mind or if the person requests medical treatment and/or is complaining of pain, etc., medical attention will be provided;
- If EMS should respond to the scene to evaluate the Injury.

Officers will not use force for the purpose of assisting medical personnel in administering nonconsensual medical treatment unless the subject is under arrest or otherwise in the custody of Law Enforcement by way of an Order of the Court.

PUBLIC SAFETY ISSUES & SPECIAL CONSIDERATIONS

Foot Pursuits

A subject attempting to flee from an officer represents active non-compliance. Any injury that a subject causes to themselves while fleeing, absent any physical contact or intervention from the officer, does not represent a Use of Force and should be documented as an Injury to Citizen (e.g. subject runs into a clothesline, trips and falls down a hill, or is struck by a vehicle). Any injury that a subject incurs due to physical contact from an officer represents an injury as a result of a Use of Force (e.g. such as being pushed and falling down and receiving scrapes and abrasions) and must be documented as a Use of Force.

Destruction of Evidence

A subject attempting to destroy evidence by swallowing it represents non-compliance and may constitute an additional violation of law. It is the policy of the Durham Police Department to not use physical force to prevent this act from occurring. Officers are prohibited from using pain compliance, strikes, aerosol weapons/munitions, CEWs or other physical force to prevent the destruction of evidence, such as swallowing/attempting to swallow drugs, unless there is a reasonable belief that the destruction of evidence would pose a threat of serious bodily injury or death to the individual. The officer should treat the situation as a medical issue and either request EMS respond to the scene or transport the subject to the hospital for evaluation.

Should the officer decide to pursue seizure of the evidence, he/she should apply for a search warrant and transport the subject to a medical facility, keeping in mind that there is no requirement that any medical professional must assist with seizing the evidence. Refer to G.O. 4068 – Strip & Body Cavity Searches.

Positional Asphyxia

At no time should an individual be left on their stomach or hog-tied, as this can lead to positional asphyxia. Officers will transport individuals in an upright position with the seat belt buckled, whenever reasonably possible.

Warning Shots

Warning shots pose an unreasonable danger to officers and citizens alike; therefore, warning shots by officers of the Durham Police Department are strictly forbidden.

Firing at Moving Vehicles

Firing at moving vehicles is prohibited except in those situations where the immediate probability of serious injury or death exists for the officer(s) and/or an innocent third party. Officers must reasonably believe that the only means of protecting themselves or a third party in this situation is the use of deadly force.

Drawing and/or Pointing a Firearm

Drawing and/or pointing a firearm is strictly forbidden except when required in the performance of an officer's official duties. The act of drawing and/or pointing a firearm when required in the performance of an officer's official duties does not constitute a Use of Force by this policy. When officers perceive a potential deadly threat, they may draw their firearms in order to reduce their reaction time and to enable them to make more effective and accurate judgements about the use of deadly force.

Drawing/Pointing/Discharging and/or Activating Aerosol Weapon or CEW

Drawing, pointing, discharging, and/or activating any aerosol weapon or CEW is strictly forbidden except when required in the performance of an officer's official duties. The act of drawing and/or pointing an aerosol weapon or CEW when required in the performance of an officer's official duties does not constitute a Use of Force by this policy. When officers perceive a potential threat they may draw their aerosol weapon or CEW in order to reduce their reaction time and enable them to make more effective and accurate judgements about the use of force.

Use of Weapons to Kill Animals

The killing of an animal is justified if one of the following situations exists:

- Need for self-defense.
- To prevent substantial harm to another person.
- When the animal is so badly injured that compassion requires its relief from further suffering.
- When a police canine handler determines that the animal poses a threat of death or serious physical injury to the handler's canine.

USE OF FORCE REPORTING

When a Use of Force Report is NOT Required

Although the circumstances will be documented in the Incident Report, a separate Use of Force report is not required in the following circumstances:

- Use of non-physical force and no injury to citizen;
- Use of Soft Empty Hand Techniques or Leverage Weapon Techniques with no apparent injury to citizen, unless the citizen claims injury;
- When an individual is injured due to his/her own actions absent any physical contact or intervention from an officer; however, officers must notify their supervisor of the injury and the circumstances in an Incident Report. Supervisors will complete an Injury to Citizens Report utilizing the Blue Team Software and submit same to the Professional Standards Division for review.

As soon as reasonably possible, but within twenty-four (24) hours of the initiating incident, the supervisor will generate the Injury to Citizen Report in Blue Team and at minimum include the following known information:

- Incident Details (include date, time, location and IR#)
- Brief Summary (not the full investigation, just a brief overview)
- Individuals involved (both officers and citizen's)

Supervisors will have five (5) calendar days to prepare and submit the final Injury to Citizen Report to their Chain of Command. Requests for additional time must be approved by the Professional Standards Commander or designee prior to the 5th day. Failure to initiate or complete an Injury to Citizen Report in accordance with the above time frames may constitute a violation of G.O. 4028 – Report Writing.

When a Use of Force Report IS Required

Unless otherwise specified by department policy, officers will immediately notify the district or duty supervisor and a Use of Force Report will be submitted whenever an officer:

- Uses any force that results in an injury;
- Uses physical force (other than Soft Empty Hand Techniques or Leverage Weapon Techniques), a lethal or less-than-lethal weapon;
- Deploys a police canine; or
- Intentionally discharges a firearm on- or off-duty, regardless of whether it results in injury, and for reasons other than training or approved Departmental programs.
- Utilizes deadly force through the use of a motor vehicle to engage in a legal intervention to stop a vehicle in accordance with G.O. 4019 – Vehicle Pursuits.

All officers involved are required to document a use of force in the narrative of their incident report/supplemental report. In the case of Officer Involved Shootings, In-Custody Death Investigations or other investigations whereby an outside agency (e.g. State Bureau of Investigation) has been requested to conduct the Criminal Investigation or the officer(s) actions, the involved officer(s) must document and submit a Supplemental Narrative as soon as reasonably possible.

Unless otherwise provided for in this policy, the Use of Force Report and investigation shall be completed by the sergeant, or corporal, on-duty in the district where the incident occurs. This shall apply to all such investigations regardless of where the particular officer is assigned. For example, if a G.R.E.A.T. officer is

working in an off-duty capacity at a restaurant in District 2 and has to pepper spray a violator, then Car 200 shall complete the Use of Force investigation and report. If Car 200 is not available, then the Watch Commander shall complete the Use of Force investigation and report.

Supervisors are required to document their investigation via the Blue Team software. As soon as reasonably possible, but within twenty-four (24) hours of the initiating incident, the supervisor will generate the Use of Force Report in Blue Team and at minimum include the following known information:

- Incident Details (include date, time, location and IR#)
- Brief Summary (not the full investigation, just a brief overview)
- Use of Force Details section
- Individuals involved (both officers and citizen's)

All applicable fields will be completed in the system. If character limitations prevent the supervisor from entering their investigative narrative, the narrative will be completed separately and uploaded into Blue Team by the supervisor. Supervisors are responsible for ensuring that the following items, when applicable, are uploaded into Blue Team prior to submitting the report:

- Narrative that includes identification of the involved parties and actions they took regarding the investigation.
- Any supporting documentation such as statements or photographs of officers, subjects, weapons and/or injuries shall be collected and submitted to Professional Standards as in any other investigation. If the supervisor is able to, those items should be uploaded directly into the system. If the information cannot be uploaded into Blue Team, it will be forwarded to the Professional Standards Division.
- When an officer utilizes a CEW in the performance of their duties, the investigating supervisor shall download the firing log of the incident from the officer's CEW to the CEW computer terminal. This information shall be uploaded into Blue Team as supporting documentation.

Supervisors will have five (5) calendar days to investigate, prepare and submit the final Use of Force Report to their Chain of Command. Requests for additional time must be approved by the Professional Standards Commander or designee prior to the 5th day. Failure to initiate or complete a Use of Force Report in accordance with the above time frames may constitute a violation of G.O. 4028 – Report Writing.

In the event of an officer involved shooting or in-custody death, officers must refer to G.O. 4067 - Officer Involved Shootings & In-Custody Deaths. If an investigator from the Internal Affairs Division responds to the scene to investigate a Use of Force incident, the IA investigator will be responsible for completing the Use of Force Report in accordance with requirements stated herein.

In instances where the officer's Department issued handgun is needed for evidentiary purposes and the officer is not placed on administrative leave, the Professional Standards Division will supply the officer with a replacement weapon.

****NOTE:** No copies (paper/electronic) or printouts are to be made of the Use of Force Report except as deemed necessary by members of the Professional Standards Division.

Reporting and Documentation of Accidental Discharge of a Firearm or CEW without Causing Injury to Others

Officers involved in an accidental discharge of a firearm or CEW will comply with G.O. 4009 - Firearms & CEW Discharge Reports.

Documentation of Animals and the Discharge of a Firearm or CEW

Officers involved in a firearm or CEW discharge against an animal will comply with G.O. 4009 - Firearms & CEW Discharge Reports.

REVIEW OF REPORTS

Use of Force Reports will reviewed as indicated in G.O. 1014 - Internal Affairs.


In addition, the Professional Standards Division will conduct an annual analysis of use of force cases in an attempt to identify trends or patterns that may indicate training needs and/or policy adjustments. The analysis will be forwarded to the Chief of Police.

TRAINING REQUIREMENTS

The department's Training Division will conduct mandatory training for all officers on use of force issues as follows:

- Training on Department's use of force policy will occur annually;
- Training and/or qualification on lethal weapons and conducted electrical weapons will occur annually;
- Refresher training for all other less-than-lethal weapons and subject control techniques will occur biennially.

All recertification sessions will be facilitated by certified instructors, and will include a lecture and a written and/or practical examination. Officer's intending to carry the CEW will be required to submit to the effects of the weapon during training.


Cerelyn J. Davis
Chief of Police